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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:17.08.2021

CORAM:

THE HONOURABLE Mr.JUSTICE N.ANAND VENKATESH

W.P. No. 19423 of 2020

M.G.Annadurai

...Petitioner

Vs.

1. The Chennai Metropolitan Water Supply and Sewerage Board,
No.1 Pumping Station Road,
Chintadripet, Chennai 600 002.

2. The Area Engineer,
Zone-XV, Sholinganallur
Chennai Metropolitan Water Supply and Sewerage Board,
Kalaighnar Karunanithi Salai
Near Corporation High School
Sholinganallur
Chennai - 600 119.

...Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, for issuance of a Writ of Mandamus to direct the respondents to provide domestic water supply service connection vide No.15/196/05963/000 (old CMC No.EB/K-56) to the petitioner residential house situated at, No.2/204, 9th street, Hanuman Colony, Injambakkam, Chennai 600 115.

For Petitioner : Mr.R.Anantha Babu

For Respondents : Mr.P.K.Paneerselvam

O R D E R

This writ petition has been filed for the issue of a writ of mandamus directing the respondents to provide domestic water supply service connection to the residential house belonging to the petitioner.

2.The case of the petitioner is that he has constructed a residential house in the subject property and he was also provided with domestic water supply connection and he claims to be paying necessary charges towards the same. The grievance of the petitioner is that the second respondent has arbitrarily



disconnected the domestic water supply connection that is provided to the residential house of the petitioner without notice. Aggrieved by the same, the present writ petition has been filed before this Court seeking for appropriate directions.

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3. The first and second respondents have filed a counter affidavit. The relevant portions in the counter affidavit are extracted hereunder:

"3. Before countering the allegations made in the affidavit filed in support of the writ petition, the background of the case is that the petitioner along with 12 residents living at Hanuman colony 9th street (Injambakkam Vettuvankeri link road). They have encroached the Government property. This land classified as "Vandipattai" poramboke in the Government revenue records. The above residents including the petitioner has filed a W.P.No.30404 of 2015 before the Hon'ble High Court of Madras to regularize their houses and granting assignment of house site patta to the petitioner by reclassifying the car track poramboke into "Anadeenam" poramboke. While disposing the writ petition No.30404 of 2015 on 25.01.2016, the order of First Bench of this Honourable Court is as follows:

(1) "The Corporation of Chennai and Assistant Commissioner, Zone-XV, Corporation of Chennai, which were impleaded as respondent Nos.6 and 7 have entered appearance and the 7th respondent has filed a report stating that at present there is no proposal being worked out for widening of the road and the drainage system.

(2) The result of the aforesaid is that as and when the project is taken up, the undertaking required to be furnished by the petitioners as per the order dt. 29.09.2015 would come into force. A specific undertaking has been filed by the petitioners in this behalf.

(3) We further direct the petitioners are not entitled to part with possession or create any third party interest as also no further construction to be made and would only enjoy the existing premises subject to the requirement of road widening/drainage system etc. in which eventuality they will have to vacate the area.

(4) The writ petition is disposed of in terms aforesaid. We make it clear that it is open to the petitioners to request the Government for rehabilitation even at present stage. No costs."

As per S.No.(3) of the order of the Hon'ble



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High Court "the petitioners are not entitled to part with possession or create any third party interest as also no further construction to be made and would only enjoy the existing premises subject to the requirement of road widening/drainage system etc. in which eventuality they will have to vacate the area."

But the petitioner blatantly violated the Hon'ble High Court Order dated 25.01.2016 and made additional/reconstruction with ground and first floor for an extent of 576 sq. ft. as per site condition and whereas as per Greater Chennai Corporation property details shows only Ground floor for an extent of 576 sq. ft. This clearly shows the violation of the High Court order.

4.Coming to the allegations made in affidavit are dealt hereunder, the allegations made in para 2 of the affidavit are denied, it is stated that the petitioner blatantly violated the Hon'ble High Court order dated 25.01.2016 and made additional/reconstruction of 576 sq.ft. as per site condition and whereas as per Greater Chennai Corporation property details shows only Ground floor for an extent of 576 sq. ft. This clearly shows the violation of the High Court Order.

5.The allegations made in paragraph 3 of the affidavit are denied. It is stated that about the domestic water supply service connection, the 13 encroachers including the petitioner have been obtained water supply service connection during the erstwhile Injambakkam Village panchayat under domestic category in the year 2003 itself before merger with Greater Chennai Corporation. After merger with Corporation during the year 2011, the Greater Chennai Corporation have assessed the above mentioned property and levied tax. Based on the assessment, the CMWSS Board levied tax and charges from the residents. None of the connections have been effected by CMWSS Board.

6.The allegation made in Para 4 of the affidavit are denied. It is submitted that before merger with respondent, the Bore well water being supplied by the erstwhile local body, ie., Injambakkam Village Panchayat and practice of supplying ground water continued by the CMWSS Board. Now, under the Injambakkam Water Supply Scheme, newly laid distribution system is available at Hanuman colony and the adjoining areas. The process of shifting the existing service connection from the old bore well main



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network to the new distribution system is in progress. On completion of shifting of all the existing service connections, supplying ground water through the old PVC main network would be completely stopped. It is further submitted that before shifting the house service connection from old main to new main additional charges will be collected by CMWSSB from the consumer if any deviation such as additional construction, category changes, infrastructure development charges etc as applicable after issuing notice. In the case of petitioner the normal procedure of issuing notice and shifting of house service connection is not applicable since,

a.It is a case of encroachment on public property.

b.Blattant violation of order dated 25.01.2016 of this Honourable Court.

c.An additional construction was put up on the encroached land and tenanted thereby fetching revenue from the Government revenue land.

It is humbly submitted that in the event of effecting water connection the Board is regularising the encroachment and also transgressing the orders of this Honourable Court as stated supra."

4.Heard the learned counsel for the petitioner and the learned standing counsel for the respondents.

5.It is clear from the above counter affidavit that the residential house of the petitioner was already provided with water supply connection by the erstwhile Injambakkam Village Panchayat in the year 2003 and it is stated that the said connection continues. The petitioner wanted to shift the existing service connection from the old borewell to the new distribution system and accordingly, approached the respondents. On inspection, it was found that the petitioner had put up additional construction with ground and first floor for an extent of 576 sq. ft. in violation of the orders passed by the Division Bench of this Court in WP No.30404/2015. If the second respondent provides water supply for such a construction, it will tantamount to violating the orders passed by the Division Bench. By doing so, the respondent will also be regularising the illegal construction put up by the petitioner.

6. In view of the above, the relief as sought for by the petitioner cannot be granted by this Court and there is already an existing domestic water connection that was given to the petitioner by the erstwhile Injambakkam Village Panchayat and



this connection has not been disconnected by the respondents and the petitioner is also paying the water charges under domestic category till date.

7. In the result, this writ petition stands dismissed. No costs.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

RR

To

1. The Chennai Metropolitan Water Supply and Sewerage Board,
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W.P.No. 19423 of 2020

PL (CO)
K.RK. (15.09.2021)